



**JUSTICE CABINET
DEPARTMENT OF
JUVENILE JUSTICE
POLICY AND PROCEDURES**

REFERENCES:
505 KAR 1:170
4-JCF-4C-50
4-JDF-4C-50
3-JTS-D06-8
3-JCRF-3D-04-8
1-JBC-3D-06-7

**CHAPTER: Prison Rape Elimination Act of
2003 (PREA)**

**AUTHORITY: KRS 15A.065; 28
CFR 115; 28 CFR 115.364; 28
CFR 115.635; 28 CFR 115.366; 28
CFR 115.382; 28 CFR 115.383**

**SUBJECT: DJJ Response to a Report of a
PREA Violation**

POLICY NUMBER: 908

TOTAL PAGES: 6

EFFECTIVE DATE: 04/04/14

APPROVAL: A. Hasan Davis , COMMISSIONER

I. POLICY

The Department of Juvenile Justice (DJJ) shall have a coordinated response system in place to address incidents of sexual abuse, sexual harassment, sexual contact, or any type of sexual offense directed toward juveniles who are in the custody, care, and supervision of DJJ.

II. APPLICABILITY

This policy shall apply to all DJJ staff, volunteers, interns and contractors.

III. DEFINITIONS

Refer to Chapter 900.

IV. PROCEDURES

- A. If a facility employee is witness to or hears about a juvenile making inappropriate sexual comments, the staff shall advise the juvenile that comments of a sexual nature are prohibited and that sanctions shall be put in place if the behavior does not stop. If a pattern of inappropriate communication continues by the juvenile, the staff or the juvenile shall report this conduct to the Internal Investigations Branch (IIB) hotline.

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- B. If any facility employee learns that a juvenile is at substantial risk of imminent danger of sexual abuse or has received a report of sexual abuse, sexual harassment, or sexual contact, the staff shall take immediate action to protect the juvenile.
- C. Staff at each facility shall develop and implement a coordinated written plan that shall dictate the actions of first responders, medical and mental health staff, and contacts to be made, immediately following a report of sexual abuse, sexual harassment, sexual contact, or any sexual offense.
- D. If a facility employee hears about or learns of a threat of sexual abuse, sexual contact, or any sexual offense, the employee shall take the following steps:
 - 1. The alleged perpetrator shall immediately be separated from the intended victim and other juveniles and shall be placed in an isolated area until safety measures are put in place to prevent the abuse. Staff shall make a report to the IIB hotline; and
 - 2. If the alleged perpetrator is an employee, the employee shall be separated from direct contact and access to all juveniles.
- E. If sexual abuse has occurred, the location of the incident shall immediately be cleared of juveniles and staff. Staff shall erect barriers to rope off the area to ensure the area remains undisturbed until law enforcement arrives.
 - 1. Staff and the juvenile shall not remove any items from the scene, including clothing, linens, and towels. Bodily fluids that are on the floor, furniture, or linens shall not be compromised.
 - 2. If law enforcement does not arrive immediately or chooses not to investigate, evidence shall be collected and preserved. Staff shall make this evidence available to IIB.
 - 3. If the abuse occurred more than seventy-two (72) hours prior to the report, sealing off the area may not be practical due to traffic, contamination, and use of the area. The facility Superintendent or Regional Director shall use his or her best judgment in determining what areas to close and what evidence to collect. IIB may be used as a resource for consultation in making this decision.
 - 4. Staff who directly receive the report or witness the sexual abuse shall complete an incident report. Any other staff who witnessed or have relevant information shall complete an addendum to the incident report.
 - 5. The juvenile victim of the sexual abuse shall be separated until they can be interviewed by law enforcement or law enforcement confirms that the juvenile victim does not need to be interviewed.
 - 6. The alleged perpetrator and any other juvenile or staff who witnessed or were involved in the incident shall be evaluated by medical staff and the

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Regional Psychologist, Treatment Director, or designee for any necessary treatment or counseling, immediately after the safety and security of the victim is ensured.

7. The facility Superintendent shall review, download, and preserve all videos in or around the area that could contain evidence of a Prison Rape Elimination Act of 2003 (PREA) violation.
 8. For an allegation of juvenile-on-juvenile sexual abuse, sexual harassment, sexual contact, or any type of sexual offense, the facility Superintendent may submit an administrative transfer request (ATR) to the Division of Placement Services, to move the alleged perpetrator from the facility.
- F. If sexual abuse has occurred, facility staff shall take the following steps in caring for the juvenile victim:
1. Kentucky State Police (KSP) shall be immediately notified, unless the incident happened in the cities of Lexington or Louisville, Kentucky. Then DJJ staff shall contact the local police department in Lexington or Louisville and a report shall be filed;
 2. The nurse or health trained staff shall ensure that the juvenile is medically conscious and is mobile. Staff shall only provide treatment for conditions that are life-threatening. If additional treatment is needed, the closest emergency medical facility shall provide medical care;
 3. The juvenile victim shall not be permitted to shower or otherwise clean themselves until they are examined by emergency medical facility staff and cleared by the emergency medical facility to do so;
 4. If the assault occurred less than seventy-two (72) hours prior to the report, the juvenile victim shall be transported to the closest emergency medical facility by DJJ staff and the juvenile shall be examined by qualified medical staff. If transportation is not readily available, a 911 emergency operator shall be utilized;
 5. DJJ staff shall not leave the emergency medical facility until the juvenile is released by the attending physician and law enforcement officials authorize release;
 6. If the assault occurred more than seventy two (72) hours prior to the report, transportation to an emergency medical facility shall be at the discretion of the facility medical staff. If there is no on-site facility medical staff, the Division Director of Medical Services shall be consulted;
 7. Upon return from emergency medical services to the facility, the juvenile victim shall be evaluated by the Regional Psychologist or Treatment Director for appropriate counseling or treatment needs;

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8. Upon return from emergency medical services, in consultation with facility medical and counseling staff, the facility Superintendent or Regional Director shall make appropriate arrangements regarding housing or group assignment for the juvenile victim and the alleged perpetrator;
 9. The parent or caregiver and juvenile service worker (JSW) of the juvenile victim shall be notified of the alleged PREA violation;
 10. If a juvenile court retains jurisdiction over the alleged victim, the Office of Legal Services shall report the allegation to the attorney of the juvenile or other legal representative within fourteen (14) days of the allegation; and
 11. If a Children's Advocacy Center is available, DJJ staff shall collaborate with the Children's Advocacy Center to provide care for victims. For youth in detention who have not been committed to DJJ, approval shall be obtained from the court.
- G. After an allegation has been made, the facility shall protect the reporting juvenile, facility staff, or any cooperating individual from retaliations by other juvenile or facility staff.
1. Facility staff shall be designated to monitor for retaliatory behavior or actions.
 2. Facility staff shall use protective measures, such as changes in residential housing for juvenile victims, transfer of juveniles to other facilities, and change of work assignments for alleged staff.
 3. Facility staff shall provide emotional support for juveniles and staff, who fear retaliation from reporting sexual abuse, sexual harassment, sexual contact, or any sexual offense through residential counseling and the Kentucky Employee Assistance Program (KEAP).
 4. Facility staff shall monitor the treatment of the juvenile and staff for ninety (90) days following a report of sexual abuse or sexual harassment, and if the victim exhibits changes that may suggest possible retaliation by other juveniles or staff the facility shall act immediately to address any retaliation.
 5. Juvenile disciplinary reports, housing assignments, facility staff reassignments, program changes, and any negative performance reviews of facility staff involved in the allegation shall be monitored for indications of retaliation.
 6. Monitoring shall continue beyond ninety (90) days if any indication of retaliation is noted.
 7. The facility may terminate the monitoring process if through investigation it is determined that the allegations are unfounded.

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- H. If a committed or probated juvenile, under community supervision, reports a sexual abuse, sexual contact, or any type of sexual offense to a Division of Community and Mental Health staff or a community employee learns of an alleged sexual abuse through other means, the community staff shall take the following steps:
1. Upon being notified of the sexual abuse, the Juvenile Services Worker (JSW) shall immediately notify their supervisory chain, which includes the Juvenile Services District Supervisor (JSDS), Regional Manager, and the Division Director of Community and Mental Health Services.
 2. The JSW shall make a report to the Department of Community Based Services, the IIB hotline and the KSP office that is near the facility or office where the juvenile is located except for those facilities or offices located in Lexington or Louisville, Kentucky. In Lexington and Louisville, staff shall contact the local law enforcement agencies.
 3. The Division Director of Community and Mental Health Services shall inform the Agency PREA Compliance Officer, the DJJ Office of Legal Services, and the Deputy Commissioners, and the Commissioner.
 4. The JSW shall advise parents or legal guardians to seek medical assistance and examinations regarding the juvenile reporting the sexual abuse.
 5. The JSW may accompany the juvenile and parents or legal guardians to the medical facilities for medical assistance and examinations. The JSW shall provide continuous updates to the supervisory chain.
 6. The JSW shall assist in arranging victim services and counseling for the juvenile and parent or legal guardian. Resources may include the Children's Advocacy Center, Kentucky Association of Sexual Assault Programs (KASAP), Victim's Advocate at the Commonwealth Attorney's office, DJJ Mental Health, and other community based services that provide sexual abuse assistance.
 7. The Division Director of Community and Mental Health Services shall provide updated information to the Agency PREA Compliance Officer, the DJJ Office of Legal Services, the Deputy Commissioners, and the Commissioner.
- I. If sexual abuse occurs in a private child care facility, therapeutic foster care home, or in a mental health medical facility DJJ staff shall, upon receiving notice, do the following:
1. Classification staff and the JSW shall notify the IIB hotline;
 2. Classification staff and the JSW shall notify the Director in their respective chains of command;

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3. The Director of Placement Services and the Director of Community and Mental Health Services shall notify the Commissioner, the Deputy Commissioner in their respective chain of command, the Agency PREA Compliance Officer, and the Ombudsman;
 4. The Director of Community and Mental Health Services shall coordinate the immediate service needs of the juvenile and assign a staff person to accompany the juvenile for any medical and mental health services that may be needed; and
 5. The Division Director of Community and Mental Health Services, the Director of Placement Services or designee, and the Deputy Commissioner shall case conference the matter to determine the best placement arrangement and treatment needs for the DJJ juvenile or juveniles involved.
- J. If a juvenile is being transferred as a result of sexual abuse, the Division of Placement Services Classification representative shall notify the receiving facility and the Regional Director, of the situation surrounding the juvenile transfer. The receiving facility shall follow all procedures within this policy.
 - K. DJJ shall enter into a memorandum of understanding (MOU) or an agreement with community service providers that are able to provide juveniles with emotional support services related to sexual abuse. Each facility Superintendent shall utilize the crisis and counseling services associated with KASP when an incident of sexual abuse has occurred at a facility.
 - L. When staff have any questions regarding the PREA processes, protocol, or the federal PREA standards, staff may contact the Agency PREA Compliance Officer.

V. STAFF TRAINING

- A. The Agency PREA Compliance Officer or designee or the PREA trainer from the Training Branch shall be responsible for training all Facility and Community PREA Coordinators regarding this policy.
- B. Each Facility PREA Coordinator shall be responsible for training facility staff regarding this policy.
- C. Each Community PREA Coordinator shall be responsible for training community staff regarding this policy.

VI. MONITORING MECHANISM

The Agency PREA Compliance Officer or designee shall conduct an annual audit to verify that DJJ staff are being trained regarding the policy.